REMARKS

Claims 2-33, 35-37, 39-44 and 47-49 are pending with Claims 35-37, 39-44 and 48 and 49 being withdrawn.

The Cited References Do Not Describe a Host Computer that Classifies Items

The Examiner rejected Claims 47, 4-5, 8-10 and 25-31 under U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,085,176 to Woolston ("Woolston"), in view of U.S. Pub. No. 20030041098 to Lortz ("Lortz")/U.S. Pat. No. 6,301,574 to Thomas et al. ("Thomas")/U.S. Pat. No. 5,727,164 to Kaye et al. ("Kaye").

Woolston describes a system for creating an electronic market for used and collectable goods that includes consignment nodes or posting terminals. A consignment node is a computer database of used goods preferably operated by a used good, collectable shop keeper or a bailee. A posting terminal allows a user to present goods to a computerized market and track the sales of goods and control the posted inventory. All consignment nodes users or operators, are licensees or franchisers of the software and hardware necessary to create and operate a consignment node. Column 2, lines 29-38.

Woolston describes that the franchise agreement specifies which market a consignment node operator serves. For example, one consignment node operator may be given the market for antique pens. Column 2, lines 44-48. The market categories and subcategories shown in Fig. 8 are established by the consignment node operator. Woolston describes that a posting terminal user is prompted for certain information about the item to be posted, including the selection of a category and subcategory using a drop down menu. Regardless of whether a consignment node or a posting terminal is used, the item is categorized by the entity that posts the item at the time of posting using a common set of categories and subcategories.

The Examiner admitted that Woolston does not teach that a shopper can specify a class of items and that stored information for the first and second selected items includes an association with the specified class as determined by the host computer. However, the

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Examiner alleged that Woolson describes categories and subcategories of goods and that Lortz/Thomas/Kaye teaches wherein stored information for the first and second selected items includes an association with the specified class as determined by the host computer.

Lortz can not be relied upon to reject the claims. Lortz was filed on June 23, 1999. The present application claims priority to U.S. Provisional Application Serial No. 60/154,667 filed September 16, 1999. All of the named inventors are inventors of all of the pending claims. The declaration of inventor Jay Walters establishes that the claimed invention was conceived and reduced to practice prior to June 23, 1999. The declaration of Mr. Walters is attached hereto as Appendix A. The remaining inventors, Chris Hall, Girish Haran, Borne Mace, Kimbo Mundy, Peter Leeds and Derek Young, are unavailable or refuse to sign the declaration. A declaration of Brenda Holmes confirming the transmittal of the declaration to the non-signing inventors and detailing her attempts to obtain executed declarations from the non-signing inventors is attached hereto as Appendix B.

Lortz does not claim the same invention as the present application. Independent claim 47 recites receiving a specification of a class of items, collecting information about the first selected item from at least two enterprises and information about the second selected item from at least one enterprise, and storing the information collected from the enterprises in a host database, wherein the stored information for the first selected item and the second selected item includes an association with the specified class as determined by the host computer. Lortz does not recite using information collected from multiple enterprises to classify items. In light of the foregoing, it is respectfully submitted that Lortz should be removed as a reference.

Thomas describes a system for presenting, receiving and searching outsourcing information. The system allows outsourcing companies and contractors to locate and identify one another and facilitates the bidding process between them. The system can be combined with a number of databases, including a resume database, an on-line stock statistics database, an interactive bulletin board database and an on-line newspaper database. Column 10, lines 16-19. "An on-line newspaper database may be used in conjunction with a searching device

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to conduct searches of on-line news archives and newspapers of the world and to e-mail the link (e.g. the URL) identified by the searching device to a results template that categorizes the location of identified articles of interest for each user into such headings as financial, world news, sports, etc." Column 10, lines 31-37.

The cited section of Thomas does not provide any details regarding the newspaper database, the operation of the searching device, or how the results template categorizes the location of the identified articles of interest. As best understood by the undersigned, the search results of the newspaper database are provided in a results template similar to the results template described in connection with Fig. 5, except that the names of the fields and the content of the fields would reflect information from the newspaper database. For example, one of the fields may include the location (e.g. the URL) to an article and another field may include the title of the article. It appears that the results are organized based on the section of the newspaper with which the article was originally associated, such as "financial, world news, sports," which represents a common classification scheme assigned at the time of publication or posting. The cited section of Thomas does not describe how a user searches the newspaper database. In particular, the cited sections of Thomas do not describe allowing a user to specify a class.

Kaye describes an inventory system where inventory information is stored in multiple databases. The user selects categories of items prior to communicating with an offsite computer so that only information related to the categories of interest is transmitted to the local computer. Although Kaye describes searching by family/subfamily, the association of the family/subfamily to the inventory item occurs when the entry is created. For example, Kaye describes that the system "displays a menu of all family/subfamily names in the local inventory database" to the user and that the user selects from this menu to create an entry. Column 5, lines 17-24, Fig. 8. In addition, Kaye requires that all of the users be "network members" and that each network member maintains "their local inventory in the specified family/subfamily/item format on their respective computer." Column 3, lines 55-57. Thus,

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Kaye describes searching based on commonly defined family/subfamily/item identifiers assigned at that time the entry is created.

The invention of Claim 47 does not require that all enterprises use a common classification system or classify items when they are posted or created using a common classification system, as required by the cited references. Instead, the user specifies a class of items, the host computer collects information about items within the class from a number of independent enterprises, and based on the information collected, the host computer classifies each item by associating the item with at least one class. Since all of the properly cited references describe providing search results using common classifications or categories that are assigned at the time of posting or entry, even if the references are combined, the combination of the references fails to describe the claimed invention.

Furthermore, there is no reason to combine the references in the manner suggested by the Examiner. The types of goods/services and the types of sellers/providers differ. Woolston describes a system that is directed to the used good and collectable market where the items are unique or only available in very limited numbers and where the items are not interchangeable. For example, two antique baseball cards for the same player in different conditions will bring different prices. Thomas describes a system that is directed to outsourcing companies and independent contractors and is directed to services, not goods. The services of an independent contractor differ from a collectable good since the contractor can accept multiple projects, i.e. sell its services multiple times, whereas once a collectable good is sold, it is no longer available for sale (or at least not from the same seller or at the same price). Kaye describes an inventory system that is only available to network members. Although the system described by Kaye can be used for items other than electronic components, it requires the use of a family/subfamily/item format to create "three levels of product definition" and thus is directed to products defined by multiple levels of definition. Column 9, lines 25-28. Neither Woolston nor Thomas define multiple levels of product definition and thus there is no reason to combine Woolston or Thomas with Kaye. The electronic components described by Kaye differ from the collectables described by Woolston

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since the electronic components are commodity parts so there is no reason to combine Kaye with Woolston.

Even if the references are combined, the combination does not describe the claimed invention. Claim 47 does not require that all enterprises use a common classification system or classify items <u>when they are posted</u> using a common classification system, as required by the properly cited references. Instead, the host computer searches a number of independent enterprises for information about items and then based on the information collected, the <u>host computer</u> classifies each item by associating the item with at least one class.

The Cited References Do Not Describe Multiple Auction Sites or Collecting Information Based on Previously Collected Information

The Examiner rejected Claims 11-24, 32 and 33 under U.S.C. § 103(a) as being unpatentable over Woolston, in view of Lortz/Thomas/Kaye, and further in view of U.S. Pat. No. 5,835,896 to Fisher ("Fisher"). Fisher describes a multi-bidder interactive auction conducted via a network, such as the Internet. A single system controls the items that are up for bid, receives bids from bidders and processes all bids. The system does not interact with other auction systems. Although Fisher describes that an index of available merchandise is maintained, no details of the index are provided. Column 7, lines 39-40. The auction system described by Fisher does not allow a user to specify a class or category of items and does not describe associating data items for a selected product or service with categories.

Claims 11-24, 32 and 33 require collecting information from or monitoring a plurality of auction sites. Fisher is limited to only a single auction site and does not describe collecting information from or monitoring multiple auction sites. There is no suggestion in Fisher that an auction could be conducted over multiple sites or any description of how the auction manager described by Fisher would operate over multiple sites.

Claims 11 and 13 also requires dynamically scheduling the collection of information based upon the content of previously collected information. The cited section of Fisher describes bid validation. Bid validation examines the bid information to determine whether

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all of the necessary data is present and the data values look credible. An auction manager determines when to open a new auction by checking the current time and then determining whether any new merchandise items are scheduled to be made available for bidding. The current time is retrieved from a clock or timer associated with the auction system. It is not collected from a separate enterprise. Similarly, any new merchandise items are submitted directly to the auction system. The items are not collected from a separate enterprise.

The Examiner alleged that it would have been obvious to modify Woolston to include the collection of information from an auction database described by Fisher since it "allows the auction manager to schedule information to the auction database as merchandise items are scheduled for posting and opened for bidding thereby, improving the efficiency of the system." There is no reason to modify Woolston in the manner suggested by the Examiner. Woolston describes its own auction process, post-bid process and transfer of ownership process (Figs. 4-7). The Office action does not describe how the processes described by Woolston could be modified to include the bid validation process described by Fisher. Furthermore, there is no suggestion in Woolston that a bid validation process is needed.

Thomas is directed to matching outsourcing companies and independent contractors. The terms of a particular contract are typically unique and include more than just a dollar amount. Thus the types of services described by Thomas are not compatible with an auction, where the bidders compete with one another based on a single parameter, price. Kaye is directed to a network for selling electronic components, which items are typically available to multiple buyers, i.e. more than one component is available for sale. Thus, it is not obvious to extend Thomas or Kaye to include auction sites.

Claims 2-33 depend from Claim 47. The dependent claims are distinguishable from the cited reference for at least the reasons given above in connection with the independent claims.
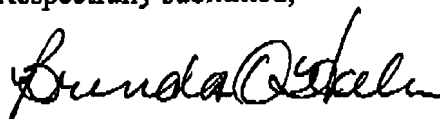
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Conclusion

In light of the foregoing, it is submitted that the claims are patentable over the cited references. If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact the undersigned at 404.685.6799.

Respectfully submitted,

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